

## REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of this application in view of the above amendments and the following remarks.

### **1. Status of the Claims**

Claims 1-21 are pending in this application. Claims 1, 18 and 20 have been amended to maintain consistent use of the terms "upper portion" and "lower portion" and to recite structural features and elements particularly with respect to the upper cylindrical portion of the bottle stopper and its use. Claims 10, 11 and 17 have been amended to use consistent geometric terminology, as "angular" and not "radial" spacing is measured in degrees. Claims 5 and 19 have been amended to clarify the claimed subject matter. Claim 20 has been amended to correct a typographical error.

Support for these amendments is found in the original specification at, for example:

Figs. 1-3 and 5-6;

Page 7 lines 15-26; and

Page 9, line 26 to page 10, line 19.

No new matter has been added.

### **2. Objection**

The typographical error in claim 20 has been corrected, changing "teh" to "the."

### **3. Rejections/Arguments**

#### **a) 102(b) Rejections over Ueda**

Claims 1, 2, 3, 8, 18 and 20 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,398,652 to Ueda et al. ("Ueda").

Applicant respectfully submits that Ueda does not teach or suggest an air passageway substantially encircled by a plurality of apertures, as required by all

of Applicant's claims. The limitation "substantially encircled," excludes the arrangement of Ueda, wherein pouring ports 1 and 2 are disposed wholly to one side of air-intake port 12. Accordingly, Ueda does not anticipate or render obvious any of Applicant's claims.

In addition, Ueda fails to teach or suggest a bottle stopper as presently claimed, namely, a stopper having an upper cylindrical portion having a substantially circular interior cross-sectional shape and extending above and surrounding the uniformly dispersed apertures and the air passageway to permit sealing the liquid in the bottle from the atmosphere by a cap insertable into the upper portion interior of the bottle stopper to close both the apertures and the air passageway to the atmosphere.

In conclusion, Ueda fails to teach or suggest the claimed bottle stopper of claims 1 and 18 and all claims dependent thereon and this rejection should be withdrawn.

**b) 103(a) Rejections over Ueda**

Claims 6, 7, 10 and 11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda.

The reasons set forth with respect to the § 102 rejection are applicable here.

In addition, Applicant respectfully asserts that Ueda does not show an air passageway substantially encircled by a plurality of apertures, as discussed above at 3.a), and accordingly traverses the Examiner's argument that Ueda Figs. 12-13B show all claimed features of claims 6, 7, 10 and 11 except for the visual indicator being a protuberance at about 180 degrees from the air passageway. Moreover, it would not have been obvious to one of ordinary skill in the art to modify Ueda to provide the claimed arrangement of apertures and air passageway. Accordingly, Ueda fails to teach or suggest the subject matter of claims 6, 7, 10 and 11 and this rejection should be withdrawn.

c) 103(a) Rejections over Ueda in View of Baxter

Claims 4, 5 and 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda in view of U.S. Patent No. 4,128,189 to Baxter ("Baxter").

The reasons set forth with respect to the § 102 rejection are applicable here. In addition, Baxter fails to supply the deficiencies of Ueda as Baxter fails to teach or suggest a bottle stopper as presently claimed, namely, a stopper having an upper cylindrical portion having a substantially circular interior cross-sectional shape and extending above and surrounding the uniformly dispersed apertures and the air passageway to permit sealing the liquid in the bottle from the atmosphere by a cap insertable into the upper portion interior of the bottle stopper to close both the apertures and the air passageway to the atmosphere.

In addition, Applicant respectfully traverses the Examiner's argument that Ueda shows all claimed features of claims 4, 5 and 9 except for a visual indicator having a different color, an anti-drip spout and a spout having a sloped mouth, because Ueda fails to disclose an air passageway substantially encircled by pouring apertures. Moreover, the combination of Ueda and Baxter also fails to disclose the claimed arrangement of apertures and air passageway required by all of Applicant's claims. For this reason alone, the combination fails to render any claim obvious.

With respect to claim 5, Applicant respectfully traverses the Examiner's argument that the inclined "cutoff" 78 of Baxter, see col. 3 Ins. 56-60, is a "mouth having a slope of about 50 degrees relative to [a] cylindrical body" within the meaning of claim 5 as Applicant's claimed spout extends outwardly past the cylindrical body.

Claim 9 requires a visual indicator for identifying the relative location of the air passageway, the visual indicator comprising a marking having a color different from the color of the cylindrical body. The Examiner argues that Baxter discloses this limitation by disclosing a spout and cover of different colors, presumably referring to the passage at col. 2 ln. 67 – col. 3 ln. 2, where Baxter

discloses an insert having a color that blends well with the coloring of the label, cap and other parts of the container. Applicant respectfully submits that the entire insert 50 of Baxter is not a visual indicator for identifying the relative location of the air passageway, as it spans the entire 360 degrees around the axis of Baxter's device. Likewise, a color applied to the entire insert 50 would not be a "marking" having a color different from the color of the cylindrical body of claim 9, as it would not serve to indicate anything about any particular position on the insert. Therefore the combination of Ueda and Baxter fails to disclose the additional limitation of claim 9.

For at least the foregoing reasons, claims 4, 5 and 9 are not obvious over Ueda in view of Baxter.

d) 103(a) Rejections over Ueda in View of Pham

Claims 12, 13 and 17<sup>1</sup> have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda in view of U.S. Patent No. 5,228,603 to Pham et al. ("Pham").

The reasons set forth with respect to the § 102 rejection are applicable here. In addition, Pham fails to supply the deficiencies of Ueda as Pham fails to teach or suggest a bottle stopper as presently claimed, namely, a stopper having an upper cylindrical portion having a substantially circular interior cross-sectional shape and extending above and surrounding the uniformly dispersed apertures and the air passageway to permit sealing the liquid in the bottle from the atmosphere by a cap insertable into the upper portion interior of the bottle stopper to close both the apertures and the air passageway to the atmosphere.

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<sup>1</sup> Applicant understands by Examiner's reference to a flexible strand that Examiner also intended to reject claim 17.

Also, Ueda and Pham fail to disclose or suggest an air passageway substantially encircled by the apertures of the pour opening, as required by all claims. For each of these reasons, Ueda in view of Pham fails to render any claim obvious.

Thus, for at least the foregoing reasons, claims 12, 13 and 17 are not obvious over Ueda in view of Pham.

e) 103(a) Rejections over Ueda in View of Parker

Claims 14-17, 19 and 21 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda in view of U.S. Patent No. 3,168,221 to Parker (“Parker”).

The reasons set forth with respect to the § 102 rejection are applicable here. In addition, Parker fails to supply the deficiencies of Ueda as Parker fails to teach or suggest a bottle stopper as presently claimed, namely, a stopper having an upper cylindrical portion having a substantially circular interior cross-sectional shape and extending above and surrounding the uniformly dispersed apertures and the air passageway to permit sealing the liquid in the bottle from the atmosphere by a cap insertable into the upper portion interior of the bottle stopper to close both the apertures and the air passageway to the atmosphere.

Ueda also fails to disclose an air passageway substantially encircled by the apertures of the pour opening, as required by all claims. The combination of Ueda and Parker also fails to disclose the claimed arrangement of apertures and air passageway required by all of Applicant’s claims. For each of these reasons alone, Ueda in view of Parker fails to render any claim obvious.

Claim 14 additionally requires a cap insertable in sealing engagement with the second end of the cylindrical body. Parker does not disclose an insertable (i.e., male) cap, but rather a female cap which frictionally engages a “shoulder.” See col. 2, Ins. 6-8; Figs. 1-3. For this additional reason, the combination of Ueda and Parker fails to disclose all elements of claim 14.

Claim 15 depends from claim 14, requiring that one of the cap and the cylindrical body further comprise a sealing ring, and the other a sealing groove. Even if shoulder 26 is a sealing ring as the Examiner contends, Parker does not disclose a corresponding sealing groove on the cap 24. For this additional reason, the combination of Ueda and Parker fails to disclose all elements of claim 15.

Claim 16 depends from claim 15, further requiring that the sealing ring be on the cap. Parker does not disclose a sealing ring on the cap 24. For this additional reason, the combination of Ueda and Parker fails to disclose all elements of claim 16.

Claim 17 depends from claim 14 and incorporates all of its elements. Therefore, the combination of Ueda and Parker fails to disclose all elements of claim 17 for at least the reasons discussed above.

All claims, including claims 19 and 21, require an air passageway substantially encircled by a plurality of apertures, an arrangement which, as discussed above, is not disclosed by the combination of Ueda and Parker.

For at least the foregoing reasons, claims 14-17, 19 and 21 are not obvious over Ueda in view of Parker.

### CONCLUSION

In view of the foregoing, no single reference or combination of the cited references teaches or suggests, whether alone or in combination, the subject matter of claims 1-21. Applicant respectfully submits that all of the rejections

have thus been overcome and claims 1-21, as amended, are in condition for allowance. Accordingly, an early indication of allowance is solicited.

Respectfully submitted,

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